

## **BEFORE THE ALABAMA BOARD OF NURSING**

**IN THE MATTER OF:** )  
 )  
**ELIZABETH JANE BEARD ZWAGIL** )  
 )  
**Petitioner.** )

### **DECLARATORY RULING**

COMES NOW the Alabama Board of Nursing, by and through its Executive Officer, N. Genell Lee, RN, MSN, JD, and issues the following declaratory ruling:

### **FINDINGS OF FACT**

1. On or about March 4, 2011, Zwagil submitted to the Alabama Board of Nursing an online application for licensure as a registered nurse by endorsement. In January 1994, Zwagil earned an associate degree in nursing from Regents College (now Excelsior College). The Regents/Excelsior associate degree in nursing program does not include clinical learning experiences, but rather offers a Clinical Performance in Nursing Examination. Prior to enrolling with Excelsior, Zwagil was a respiratory therapist, having earned an associate's degree with a major in respiratory therapy from Lexington Community College, Lexington, Kentucky. Zwagil did not present any evidence of having completed any nursing coursework prior to enrollment at Excelsior.
2. By letter of June 17, 2011, Zwagil was informed that she did not meet the requirements for licensure in Alabama because she did not have both theory and clinical in the areas of adult, maternal, child, and psychiatric nursing. She was informed that the clinical performance evaluation used by Excelsior is not clinical for purposes of a pre-licensure program. Zwagil was informed that she could petition the Board for a declaratory ruling exempting her from the rules that govern licensure and nursing education.
3. On September 8, 2011, the Board received Zwagil's petition for a declaratory ruling seeking exemption from the rules that govern licensure and nursing education on the grounds that her experience as a respiratory therapist, her work experience as a RN, and the clinical training and observations she arranged for herself, have provided her with sufficient clinical experience for licensure as a RN in Alabama.
4. In support of her petition, Zwagil submitted a letter describing her clinical experience. Zwagil indicated that she had worked as a respiratory therapist in all areas of a 400 bed hospital. She had also worked as a respiratory therapist at "a smaller acute, long term care facility whose patients included ventilator dependent, stabilized critical care patients." Zwagil further indicated that once enrolled at Regents, she arranged for her own clinical training on her days off, using a nurse preceptor at her place of employment. She also participated in

observation of maternity and pediatrics at a local hospital. Following her 1994 graduation from Regents, Zwagil has worked in the PCU, the CCU, the ICU, medical/surgical, and rehabilitation. In 1998, she began to work as a diabetes educator for patients, and beginning in May 2002, she began working in telephonic, disease-specific, care management of chronically ill patients. Her continuing education certificates submitted with her application for licensure include courses on child abuse, school RN's and students with diabetes, type II diabetes in youth, and gestational diabetes for the health of the mother and child.

### **CONCLUSIONS OF LAW**

1. Zwagil is substantially affected by the rules at issue; thus, the Board has jurisdiction to consider the petition for declaratory ruling pursuant to Code of Alabama (1975) § 41-22-11 and Alabama Board of Nursing Administrative Code § 610-X-1-.09.
2. Nursing education programs approved by the Alabama Board of Nursing are required to "provide theoretical and clinical experiences specific to the expected scope of practice of graduates from each type of entry level nursing education program." Alabama Board of Nursing Administrative Code § 610-X-3-.02(10)(d). Programs must provide "[t]heory and clinical learning experiences in the areas of adult, maternal, child, and psychiatric/mental health nursing that includes any form of simulation, laboratory time and direct patient care." Alabama Board of Nursing Administrative Code § 610-X-3-.02(10)(e)(v). Board rules further provide that "nursing programs that offer only simulations or clinical testing do not meet the requirements for providing clinical learning experiences for nursing students." Alabama Board of Nursing Administrative Code § 610-X-3-.02(13).
3. To be eligible for licensure as a registered nurse in Alabama, applicants must have "graduated or successfully completed all requirements for graduation from an approved registered nursing program in Alabama, or an approved registered nursing program located in another jurisdiction or territory that substantially meets the same educational criteria as Alabama programs. Licensure by equivalency does not meet the requirement." Alabama Board of Nursing Administrative Code § 610-X-4-.02(1)(c). See also Code of Alabama (1975) § 34-21-21. Endorsement applicants must "[s]ubmit official evidence of completion of a nursing education program that included theory and clinical experience appropriate to the type program. If the nursing education program did not include clinical experience, the applicant's continuing education and work experience in nursing may be considered at the discretion of the Board." Alabama Board of Nursing Administrative Code § 610-X-4-.07(1)(c).
4. Zwagil has not submitted evidence that she has graduated from a registered nursing program that substantially meets the same educational criteria as Alabama programs. Specifically, Zwagil has not provided evidence that her nursing education program included clinical learning experiences in the areas of adult, maternal, child, and psychiatric/mental health nursing. The clinical testing that Zwagil underwent as a part of her registered nursing education program does not meet Board requirements for clinical learning experiences for nursing students.

5. Although Zwagil's nursing education program did not include clinical experience, the Board, at its discretion, may consider Zwagil's continuing education and work experience in nursing. Zwagil has demonstrated sufficient clinical experience in adult nursing, but has failed to demonstrate sufficient clinical experience in maternal, child, and psychiatric/mental health nursing.

### **RULING**

Zwagil's Petition for Declaratory Ruling is **DENIED**. Should Zwagil submit sufficient evidence of clinical education from an approved school of nursing in maternal, child, and psychiatric/mental health nursing, her application will be considered.

DONE and ORDERED this the \_15th\_\_ day of September, 2011.

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N. GENELL LEE, RN, MSN, JD  
EXECUTIVE OFFICER